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**GOVERNMENT OPERATION OF
FEDERAL BARGE LINE IN
COMPETITION WITH RAIL
AND OTHER TRANSPOR-
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BY

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GOVERNMENT OPERATION OF FEDERAL BARGE LINE IN COMPETITION WITH RAIL AND OTHER TRANSPORTATION SERVICE

The United States Government competes with rail and other forms of transportation through its ownership of the Inland Waterways Corporation which operates the Federal Barge Line on the Mississippi and Warrior rivers and certain of their tributaries.

The purpose of this paper is to discuss the Inland Waterways Corporation, its management, policies and practices, as a competitor of rail transportation.

"Inland waterways" as herein used means canals which must be constructed and maintained and rivers which must be improved and maintained in order to make them navigable.

The assets of the Inland Waterways Corporation, approximately \$24,000,000, were supplied without cost by the United States which owns all of its capital stock.

Its property and income are exempt from property and income taxes.

It is a competitor of the railroads for traffic and has the active support and prestige of the Government, particularly of the War Department, behind it.

Major General T. Q. Ashburn is Chairman and Executive of the Inland Waterways Corporation, in charge of its operations.

The Inland Waterways Corporation was organized in June, 1924, and took over the operation of the Federal Barge Line from the War Department which had theretofore operated such lines.

From 1918 to 1923, under the Railroad Administration and the War Department, the Barge Line had an aggregate operating deficit of \$4,786,421, and for

the years 1924 to 1929, while operated by the Inland Waterways Corporation, an aggregate deficit of \$157,758.

For the year 1930, the Inland Waterways Corporation reported a small profit, although it actually had a loss.

The showing of a profit was made possible by the payment by the War Department out of its appropriations of the expenses of the Washington office amounting to \$57,617, and by the receipt of interest on deposits amounting to \$77,895, such deposits being the unexpended balance of its capital paid in by the United States in excess of the amount used for operating purposes.

The Inland Waterways Corporation made a somewhat better showing for 1931 than for 1930, but in the year 1931 the United States expended \$17,796,061 for improvement and maintenance for navigation purposes of the Mississippi, Warrior and Tombigbee rivers, the Federal Barge Line route, bringing the total of such expenditures for the period during which the Barge Line has been operated on such rivers (1925 to 1931) to \$81,745,584.

For brevity the Inland Waterways Corporation will generally be referred to as the "Barge Line".

Relative Cost of River and Rail Transportation

The policy of the present administration is stated to be that inland waterways should be improved where such improvement is economically justifiable. No statement is made of what constitutes economic justification.

However, in a government report published in 1927 by co-operation of the Corps of Engineers and the United States Shipping Board (Transportation on the Ohio River System, ([Interim Report])), 1927, page

17), the test of economic justification is stated in the following language:

"The primary measure of the economic value of any waterway system is the savings in transportation costs which it affords. Usually this saving is shown by comparing the water transportation cost with the rates for moving the same goods between the same points by rail. Included in this cost of water transportation should be the charges for interest on capital investment in waterways improvements, plus the annual cost of operation and maintenance."

The Barge Line insists that interest on the cost of improving the waterways and the current cost of maintenance thereof for navigation purposes should be excluded in determining the costs to be charged against Barge Line operations.

The average distance by water between communities served by the Barge Line on the Mississippi and Warrior rivers from point of origin to point of destination is more than 50 per cent greater than by rail, which means that, in order to make the cost per ton per mile of transportation by water comparable with the rail cost, 50 per cent should be added to the water cost per ton mile to cover circuitry.

Several computations of the cost of water transportation on the Mississippi, Warrior and Ohio rivers have been made, after careful study, by competent authorities, charging to the Barge Line and other operators on inland waterways interest on the cost of improving and the current cost of maintaining such waterways for navigation in order to ascertain the actual cost of river transportation.

Professor Ripley of Harvard University computed the Barge Line cost for 1928, without allowance for circuitry, at 10.85 mills per ton mile, of which 4.23 mills were paid by shippers and 6.62 mills were unreported costs paid by the taxpayers.

Mr. Samuel S. Wyer, of the Fuel-Power-Educational Foundation, computed the Barge Line cost for 1928,

without allowance for circuitry, at 10.04 mills per ton per mile, of which 4.03 mills were paid by the shippers and 6.01 mills were unreported costs paid by the taxpayers.

The Bureau of Railway Economics computed the Barge Line cost for 1928, with allowance for circuitry, at 11.17 mills per ton mile, of which 4.00 mills were paid by the shippers and 7.17 mills were unreported costs paid by the taxpayers.

The Bureau also found that the weighted average cost to shippers per ton mile on eight railroads serving the same general territory on all commodities in the same year was 10.09 mills per ton per mile. This is comparable with the Barge Line cost of 11.17 mills, except that the commodities which move by rail are of a higher grade and, therefore, take a rate higher on the average than commodities moving by water.

In the report of the Institute of Economics of the Brookings Institution, Washington, D. C., on the St. Lawrence Navigation and Power Project, it is said, page 238:

"The movement for waterways improvements is based on the conviction that transportation over canals and canalized rivers, like that on the high seas, is very much cheaper than transportation by rail. This conviction, however, is the outgrowth of a wholly fallacious comparison of transportation rates supposed to show that a dollar will carry a ton of traffic many times as far over a canal or river as it will over a railway. The fallacy lies in the fact that the water rates cover only a portion of the costs."

Attention is then called to the fact that at the beginning of canal and river transportation tolls were charged for the use of canals and improved waterways for the purpose of requiring boat owners and shippers to share in the cost of canals and improving the waterways,—that it was found boat lines could not pay such tolls and compete with any degree of success with rail transportation and that payment of tolls was eliminated.

With reference to elimination of tolls, it is said:

"The enormous overhead costs incident to the construction and the maintenance of the waterway have thus been shifted from the shipper to the tax-payer. These taxes are costs of transportation quite as much as were the tolls which the shippers formerly paid.

* * * * *

"If a railroad were freed from all interest, dividend, and maintenance charges and from taxes as well, rates to shippers could obviously be greatly reduced. Such a subsidy from the tax-payers would not, however, decrease the inclusive cost of shipping goods; it would only shift the burden of a large part of the cost, from those who receive the direct benefits of the transportation service, to the tax-payers in general. In connection with waterways this fundamental fact is commonly completely ignored.

"Only when all elements of cost, whether contributed by the tax-payers or by the shippers, are included in cost computations will it be possible to determine what transportation projects are economically justifiable and what ones are economically wasteful."

It is stated in the annual report of the Inland Waterways Corporation for 1929, prepared by General Ashburn, that:

"if the cost of their [the rivers] upkeep be charged to the few operators thereon, the only result would be to destroy their value as water 'right of ways' by raising the cost of transportation via water so that no carrier could operate, and the whole policy of Congress would be defeated."

This statement confirms the conclusion of Messrs. Ripley and Wyer, the Bureau of Railway Economics, and the Institute of Economics of the Brookings Institution, that water transportation, all factors included, is more expensive than rail transportation.

It even goes further and admits that if only one

omitted factor, to wit, upkeep of the waterways, be charged as a part of the waterways cost of transportation, it would raise the cost of water transportation so high that no water carrier could operate.

Barge Line Handicaps

One of the handicaps of operators on inland waterways is the limited tonnage adjacent to rivers and accessible to water transportation.

Operators on inland waterways are unable to extend their service to the farmer, miner or manufacturer not located upon, or adjacent to, waterways.

They cannot prosper on the limited tonnage accessible to water transportation.

Tonnage beyond the zone of their service normally goes to the railroads already existing and available.

Railroads are not subject to the limitations of natural waterways.

They traverse prairies, lay their tracks over or tunnel through mountains and operate across deserts where there is not sufficient water to sustain human habitation.

In fact, the railroads go wherever railroad service is justified, multiply their tracks, expand their facilities and terminals and otherwise meet the requirements of industry and commerce everywhere.

The management of the Barge Line quickly discovered that the tonnage accessible to the Mississippi and Warrior rivers was not sufficient to sustain even subsidized government operation on a large scale.

Unfair Competition

Such management thereupon adopted the policy of endeavoring to compel the railroads to shorthaul themselves as to a large amount of the tonnage which they originate and are equipped to handle to destination over direct rail lines, and to compel them to deliver the same to the Barge Line for handling via more circuitous and less economical routes.

In other words, the Barge Line seeks to make the railroads the hewers of wood and the drawers of

water as super-gathering lines for delivery of rail traffic to the Barge Line for water transportation, practically regardless of whether or not the water route extends to or toward the destination of the traffic.

The Barge Line would have a large part of rail tonnage, however far distant its point of origin or destination from river service, hauled by rail to a wharf of the Barge Line and transported by the Barge Line in a roundabout way for a longer distance than the rail haul merely in order that the Barge Line may have the benefit of such tonnage with the result and perhaps the purpose of breaking down rail rate schedules which have been authorized as reasonable and just by the Interstate Commerce Commission.

An interesting illustration of what is sought by the Barge Line is found in a speech of General Ashburn in Chicago on May 6th, 1931.

To illustrate what the Barge Line proposed to do in forcing circuitry of movement he used traffic which originates in northwestern Iowa and northeastern Nebraska and normally moves 700 miles by direct rail route to Fort Worth, Texas. General Ashburn would have such traffic, instead of moving 700 miles by direct rail route, handled as follows:

First, 700 miles by rail,—but to St. Louis instead of Fort Worth—the object being to get it to a barge. True, a 700-mile rail movement would have put the shipment in Fort Worth had the routing been direct, but as proposed to be routed it must travel 1,700 miles further before it gets there.

Next,—the shipment being unloaded at St. Louis and thus having undergone the exact equivalent of the transportation and handling which would have delivered it by rail to the consignee in the first place—load it on a barge and carry it down the river 1,200 miles to Baton Rouge, Louisiana, and unload it again. It has now traveled 1,900 miles, but it is only 200 miles closer to destination than when it started, although origin and destination are only 700 miles apart.

Next, load it on railway cars again and backhaul it 500 miles to Fort Worth, and at last deliver it to the consignee.

Thus for the rail haul of only 700 miles normally necessary, the Barge Line would substitute 1,200 miles of rail haul plus 1,200 miles of water haul. It would consume two or three weeks in doing this, whereas direct rail haul would consume three or four days; and, furthermore, the shipment would be loaded and unloaded three times instead of once.

If the freight charge be \$100 for the direct rail haul of 700 miles it would be only \$80 for the 2,400-mile rail and water haul. Rail water rates are usually fixed by the Interstate Commerce Commission at 80 per cent of the all rail rate.

The railroad revenue from the 1,200-mile rail part of the 2,400-mile haul would be \$54.74.

Thus, to create artificially business for the Barge Line the rail transportation system would be required to carry this shipment 500 miles further for \$45.26 less.

Of this \$45.26 the Barge Line would receive \$25.26 for its wholly unnecessary 1,200-mile water haul, and the shipper would receive the remaining \$20 as a reduction in rates.

If the \$100 rail rate is unreasonable and if the shipper is entitled to a \$20 reduction, he has an adequate remedy by applying to the Interstate Commerce Commission, which has not shown itself lacking in diligent vindication of shippers' rights.

So far no one has said flatly that the railroads can, or should be required to, haul a shipment 1,200 miles for 55 per cent of what the Commission finds reasonable compensation for a 700-mile haul, but that is exactly what General Ashburn's proposal amounts to.

Under no theory ought legislative fiat or administrative propaganda undertake to divert traffic from its natural direction and channels, at the expense of delay, circuitry and unnecessary handling, to the substantial detriment of a rail transportation system, which even now does not receive a fair return on the value of its property devoted to public service, and

which in the final outcome traffic must support adequately if the country is to prosper,—merely to feed a tax-born, tax-supported Barge Line which, by its own confession, cannot live if required to bear the cost of its own upkeep.

No argument can conceal the unfairness of requiring railroads not only to share their business with the Barge Line, but also to pay substantially for doing so. Nor can argument conceal the fact that ultimately the bill will have to be paid by shippers in other sections of the country.

The railroads protest not only against what the Barge Line has done to divert traffic which would normally move by rail in order to coerce a water haul, but particularly to the extension of this and similar diversions proposed by General Ashburn and to the loss in railroad revenue and the economic waste resulting therefrom.

Dependability of Rail and Water Transportation Compared

Rail transportation is safe, continuous, dependable and expeditious. Rail freight schedules are fast and are maintained with substantially the same regularity as passenger train schedules.

Water transportation is neither dependable nor expeditious.

The report of the Inland Waterways Corporation for 1929 shows that for that year navigation was more difficult than in any preceding year; that the low water period on the Mississippi and the high water period on the Warrior were longer than in any previous year; that the Upper Mississippi above St. Louis was frozen two months earlier than usual; and that the total delays of vessels on account of fog and channel conditions aggregated for the year 11,382 hours.

The annual report for 1930 states the Mississippi, both above and below St. Louis was less navigable during that year than during 1929; that in 1930 there was the longest period of low water of any

year on record; that excluding delays caused by double-tripping over bad stretches and by night lay-overs due to bad weather, total steamer delays in July and August 1930, were 1,795 hours on account of grounding of vessels, waiting for channel and time lost in assisting other steamers; that from September 1, 1930, to January 1, 1931, delays due to poor channel conditions amounted to 8,046 hours.

The Barge Line service on the Upper Mississippi Division, that is, between Minneapolis and St. Louis, is closed on an average about four months each year on account of the river freezing over.

The railroads are expected to maintain adequate equipment and facilities to move during these four months the commodities which the Barge Line is unable to move, but which it insists on moving for the remainder of the year.

As a result of the reliability and expedition of its service, rail transportation has in recent years enabled merchants to reduce their inventories by probably one-half. A merchant may postpone his purchases so as to make the arrival of his goods concurrently with his needs. How much larger stock would the average merchant have to carry if he had to depend upon water transportation with its delays and uncertainties?

Regulation and Discrimination

Railroads are regulated as to their rates, rules, practices, service, accounting and hours of service of their employes. Operators on inland waterways are not regulated as to their rates, rules, practices, service, accounting or hours of service of their employes.

Railroad rates must be fixed, published, open to inspection and adhered to and every shipper must be given equal and impartial treatment. Port to port rates on inland waterways are not required to be fixed or published and inland waterways operators may and, I am informed, do charge one shipper one rate and another shipper another rate for identical service.

In most states railroads cannot discontinue a passenger train, close a station, or discontinue telegraph service therein without the supervision of state or municipal authority. Operators on inland waterways operate their vessels at their convenience, free of all service requirements.

Joint rail and water rates are fixed by the Interstate Commerce Commission, usually at 80 per cent of the all-rail rate, although distances from point of origin to destination average about 50 per cent greater by water than by rail, the effect of which is to divert rail traffic to waterways.

A railroad is not required to shorthaul itself in favor of another railroad, but can be compelled to do so by the Interstate Commerce Commission in favor of water carriers.

Railroads pay taxes on their property and income. Both the property and income of the Inland Waterways Corporation are exempt from taxes, although the property and income of other operators of inland waterways are subject to property and income taxation.

The railroads furnish and maintain their roadway and equipment at their own expense. The United States improves and maintains inland waterways for navigation without cost to the operators thereon and supplies without cost the capital of the Inland Waterways Corporation used to acquire barges and other facilities necessary in its operations.

Railroads construct and maintain their own station and loading facilities. The public is expected to supply such facilities for the operators on inland waterways and the Inland Waterways Corporation loans money to the municipalities along the Mississippi and Warrior rivers to induce municipal construction of warehouses and wharves to serve operators on such rivers.

Any railroad company earning more than 6 per cent upon the value of its property is required to pay one-half of such excess to the United States, even though it may have failed to earn a fair return in any other year since the recapture law became effective.

Land Grants to Induce Railroad Construction

There is a statement in the annual report of the Inland Waterways Corporation for the year 1930 that the railroads received a public donation by land grants of 132,000,000 acres of land, to which the report attributes a value of \$2.50 per acre as of the date of the grant and thus produces a supposed land grant donation of the value of \$330,000,000—charged to be "hidden costs" of railroad transportation.

The facts are that 128,000,000 acres of land granted by the United States to induce railroad construction had been patented to June 30, 1930, and there is a nominal amount yet to be patented.

The lands granted were not a donation and in most instances were of nominal value.

Land grants were made of odd-numbered sections for a given distance on either side of certain proposed railroads, the even-numbered sections being retained by the United States.

Previous to the making of land grants the maximum sale price of lands granted had been \$1.25 an acre for the more desirable and more accessible lands.

When the United States granted the odd-numbered sections to the railroads it at once increased the price of the even-numbered sections to \$2.50 per acre—doubling the price of the reserved half of the lands.

The ability of the United States to dispose of its reserved land, which it was enabled to dispose of at \$2.50 per acre, was due solely to the fact that railroad transportation was or shortly would be available where previously there had been none.

Lands granted by the United States to induce railroad construction were granted upon adequate consideration, consisting of the actual construction by each railroad company receiving patents for land-grant land of a first class railroad, in a limited time, and giving to the United States the right in perpetuity to use such railroad for the transportation of troops and property of the United States without charge.

These grants, which followed the wording of land grants to induce canal construction, contemplated that the railroads would furnish the roadway and that the government would furnish the equipment in which to move its troops and property and pay the cost of moving the same over the roadway furnished by the railroad companies.

Congress subsequently modified the land grant acts so as to require the railroads to transport over land-grant mileage the property and troops of the United States at one-half of the rates and fares charged to the public, and mail at 80 per cent of non-land-grant mail rates.

All minerals in or under the lands granted were reserved to the United States.

Theretofores the lands granted were not taxable, were not put to any beneficial use, and contributed nothing towards defraying the cost of the National government or of the development of the states in which they were located.

The land granted included a large amount of semi-arid, mountainous, worthless desert, and swamp land.

Much of the area granted was not only uninhabited, but unsurveyed, not only unproductive, but incapable of being made productive.

Railroad companies, recipients of such land grants, had to find purchasers for and settlers upon grant lands before there was any worthwhile traffic to be transported.

The original land grants applied to about 21,500 miles of railroad, but because of forfeitures, as a result of failure to construct the land-grant mileage and subsequent abandonment of such mileage, there are now only 14,410 miles of railroads for the construction of which land grants were made, according to the latest government list of land-grant mileage, or less than 6 per cent of the total railroad mileage.

The difference between the regular rate and the 80 per cent land grant mail rate on 13,255 miles of the 14,410 miles of land grant railroad mileage, for the five year period 1924 to 1929, inclusive, aggre-

gated \$10,255,000. For the same period, the saving to the government and the cost to the railroads from land grant deductions, including land grant equalization rates, on the transportation of troops and property of the United States, was at least \$11,078,940.

The amounts so paid by the railroads and saved to the government in this five year period aggregate \$21,328,940, or \$1,658 per mile of road.

Certain railroads, owning 4,893 miles of land-grant road, to which the 80 per cent mail rate applies, have returned to the government, through reduced mail rates, from 1876 to 1928, inclusive, the aggregate sum of \$16,682,722.54, or \$3,429.53 per mile of road for mail alone. Information covering this period is not available for other land-grant roads.

The Chairman of the Inland Waterways Corporation would have those who read the annual report of the Corporation for 1930 believe that he has priced the land granted to the railroads generously low at \$2.50 per acre in computing his supposed land grant *donation* of \$330,000,000. Such statement is inconsistent with the facts.

Land grants were made either to states or to railroads to induce construction of railroads in 26 states, the first grant being made in 1850 and the last in 1871.

The amount received by the government for land disposed of between 1850 and 1870, as computed from government records, was about 94 cents per acre. The greater part of the land so disposed of could not in such period have been disposed of at any price if the railroads receiving the land grants had not been built or projected into territory in which such sales were made.

I wish to quote the statements of Stephen A. Douglas, Henry Clay, and Thomas H. Benton, the report of the Select Committee of the House on Pacific Railroad and Telegraph in 1856 and decisions of the Supreme Court of the United States as to the value of lands granted at the time of the grants, and the policy and purpose of Congress in granting them.

Senator Douglas said:

"It is simply carrying out a principle which has been acted upon for 30 years, by which you cede each alternate section of land and double the price of the alternate sections not ceded, so that the same price is received for the whole. These lands have been in the market for 15 to 30 years; the average time is about 23 years; but they will not sell at the usual price of \$1.25 per acre, because they are distant from any navigable stream or a market for produce. A railroad will make the lands salable at double the usual price, because the improvement will make them valuable." (Congressional Globe Year 1851, First Congress, 1st Session, p. 845.)

Dealing with the same subject, Senator Henry Clay said:

"With respect to the state of Illinois—and I believe the same is true to a considerable extent with reference to Mississippi and Alabama, but I happen to know something personally of the interior of the state of Illinois—that portion of the state through which this road will run is a succession of prairies, the principal of which is denominated the "Grand Prairie." I do not recollect its exact length; it is, I believe, about 300 miles in length and but 100 in breadth. Now, this road will pass directly through that Grand Prairie lengthwise, and there is nobody who knows anything of that Grand Prairie who does not know that the land is utterly worthless for any present purpose—not because it is not fertile but for want of wood and water and from the fact that it is inaccessible, wanting all facilities for reaching a market or for transporting timber, so that nobody will go there and settle while it is so destitute of all the advantages of society and the convenience which arise from a social state. And now, by constructing this road through the prairie, through the center of the state of Illinois, you bring

millions of acres of land immediately into the market, which will otherwise remain for years and years entirely unsalable." (Congressional Globe Year 1851, First Congress, 1st Session, p. 850.)

Discussing the general policy of land grant aid to induce railway construction, Senator Thomas H. Benton said:

"From the consideration which I gave to that subject at that early day, it appeared to me that it was a beneficial disposition for the United States to make of her refuse lands, to cede them to the states in which they lay. Lands which had been 20 or 25 years in the market at the minimum price, and had never found a purchaser up to that time, were classed as refuse, and it was deemed that the state, as a local authority, might be able to make some disposition of them, which the general government, without the machinery of land offices, could not. The principle of the bill before the Senate is to take the refuse lands and appropriate them to a great object of internal improvement, which, although it has its locality in a particular state, produces advantages which we all know spread far and wide, for a good road cannot be made anywhere without being beneficial to the whole United States.

"But, Mr. President, with respect to the general proposition, this application rests upon a principle that young states are made desolate, in a great degree, by having lands in their midst that pay no taxes, undergo no cultivation, that are held at a price that nobody will pay, and which, in fact, in some parts of the country become jungles for the protection of wild beasts that prey upon the flocks and herds of the farmers." (Congressional Globe Year 1851. First Congress, 1st Session, p. 871.)

In 1856 the Select Committee of the House on Pacific Railroad and Telegraph made the following

statement in respect to railroad land grants:

"No better example can be given of the benefits resulting from the construction of railroads, to both public and private property, than that of the Illinois Central. On the line of that road the public lands have been offered for sale for many years without finding a purchaser, and were at last reduced to the lowest minimum price, 12½ cents per acre. Even this reduction was not sufficient to induce their sale; but after the government had given away one-half to assist in building the road, the other half was very readily sold for \$2.50 per acre. Similar results have followed the building of nearly every other railroad in the country, although in many instances the roads came in direct competition with river and canal transportation. A railroad across the continent would open up a vast extent of country to settlement, and much of what is now believed to be sterile and barren will, no doubt (as in California), be found to yield bountifully to the agriculturist. These lands are now totally without value, no matter how fertile they may be, and to the government, worthless. By giving away one-half for the construction of the proposed roads the government will thereby attach a value to the remainder; and whatever that value may be will be the amount the government is gainer by the transaction." (House Report No. 38, 34th Congress, First Session, 8-16-1856, p. 2 et seq.)

In *United States v. Ingram*, 172 U. S. 327, 329, the United States Supreme Court, speaking through Mr. Justice Brewer, said:

"It may be well to refer to the several statutes of Congress. The general policy in respect to railroad grants, expressed in the many statutes making such grants, and finally carried into the Revised Statutes in section 2357, is that while the ordinary price of public lands is \$1.25 an acre, 'the price to be paid for alternate reserved

lands, along the line of railroads within the limits granted by any act of Congress, shall be \$2.50 per acre.' * * * The reason for this addition to the price of alternate reserved sections within a railroad grant has been often stated by this court, and is referred to in the opinion in *United States v. Healey*, supra. It is that a railroad ordinarily enhances the value of contiguous lands, and when Congress granted only the odd sections to aid in the construction of one it believed that such construction would make the even and reserved sections of at least double value."

The Supreme Court of the United States in *United States v. Northern Pacific Railway Company*, 256 U.S. 51, 63, stated the purpose and effect of a railroad land grant to induce railroad construction in the following language:

"The purpose of the granting act and resolution was to bring about the construction and operation of a line of railroad extending from Lake Superior to Puget Sound and Portland through what then consisted of great stretches of homeless prairies, trackless forests, and unexplored mountains, and thus to facilitate the development of that region, promote commerce, and establish a convenient highway for the transportation of mails, troops, munitions and public stores to and from the Pacific Coast, with all the resultant advantages to the Government and the public. To that end the act and resolution embodies a proposal to the company to the effect that if it would undertake and perform that vast work it should receive in return the lands comprehended in the grant. The company accepted the proposal and at enormous cost constructed the road and put the same in operation; and the road was accepted by the President. Thus the proposal was converted

into a contract, as to which the company by performing its part became entitled to performance by the Government. *Burke v. Southern Pacific R. R. Co.*, 234 U.S. 669, 679-680. * * * Such rights are within the protection of the due process of law clause of the Constitution. *Sinking Fund Cases*, 99 U.S. 700, 718."

In addition to the statement in Inland Waterways Corporation's annual report for 1930, General Ashburn caused to be printed in the Congressional Record on February 20, 1931, a letter in which he reiterated that the railroads had a public donation through land grants of 132,000,000 acres.

The General, of course, knows that a donation is a gift, that is, a transfer of property without valuable consideration. Did he not know that railroad land grants were made upon condition that the railroad companies receiving the same were required to permit the use of their railroads and facilities by the United States government for the transportation of troops over land-grant mileage in perpetuity without charge, and did he not know that as a result of these conditions land grant railroads transport United States mail at 80 per cent of the regular non-land-grant rates, and the property and troops of the United States at 50 per cent of the regular tariff rates and that these concessions cost the railroad companies and benefit the United States to the extent of many million dollars each year?

Land grants were made to induce the construction of railroads in territory in which there was no transportation service, the lands granted being practically without value because of the absence of such service.

The subsidies given the Barge Line are to enable it to compete with rail service where there is not only adequate rail service, but a large supply of idle freight cars, the owners of which are anxious to be given an opportunity to handle their normal traffic over the most direct and economical route.

The Test of Transportation Service

I summarize what appeals to me as the proper test of transportation service as follows:

Transportation service should be adequate, economical, continuous, dependable and expeditious. Railroad transportation complies with all these requirements. Barge Line transportation, all factors of cost considered, is not economical. Neither is it continuous, dependable, nor expeditious.

Transportation service should be substantially free from delay by heat, cold, drouth, flood, storm or other weather conditions. Railroad service is substantially free from the effect of all weather conditions. Water transportation is suspended in some places for many months out of each year by cold weather and for considerable periods by flood, drouth, storms, fog and other weather conditions.

A transportation agency should provide adequate facilities for the transportation of all commodities which may be offered it for transportation and for all the communities accessible to its service, and not merely for selected commodities and selected communities. Perishable shipments, such as fruits and vegetables, should be protected from heat and cold when necessary. Rail transportation meets these requirements. Barge Line transportation does not.

All transportation agencies should be self-supporting. They should be taxpayers and not tax consumers. Railroads are self-supporting. They are taxpayers and not tax consumers. The Barge Line is not self-supporting. It is a tax consumer and not a taxpayer.

Every transportation agency should bear its fair share of the cost of Federal, state and municipal government and the education of the youths of the territory it serves. The railroads do this. The Barge Line does not.

